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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,776	09/26/2003	John Barrett Holdway	P68925US0	4340
136	7590	04/28/2006	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			WAGGONER, TIMOTHY R	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/670,776	<b>Applicant(s)</b> HOLDWAY ET AL.	
	<b>Examiner</b> Timothy R. Waggoner	<b>Art Unit</b> 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20 and 24-27 is/are rejected.
- 7) ☒ Claim(s) 21-23 and 28-31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/01/2005</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Claims 1-15 and 32-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/27/2006.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 recites the limitation "a vertical guide rail" in line 20. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai US 2001/0048000 in view of Peltier USPN 5,611,248.

(Re claim 16) Arai discloses an “elevators cup for receipt of product” (40 figure 2, Aria), “a rail guiding horizontal movement of the elevators cup” (61a figure 2, Aria), “a first drive assembly for moving the elevators cup horizontally ... including a first drive motor” (61b figure 2, Aria), “a second drive assembly for moving the rail vertically ... including a second drive motor” (62b figure 2, Aria).

Arai does not disclose the use of tensioning elements or the fixed in location motors.

Peltier teaches the use of tensioning elements and having the motors fixed in location.

It would be obvious to one skilled in the art to modify Arai by modifying the movement mechanism by adding tensioning elements and holding the motors in fixed positions in view of Peltier because it offers another X-Y positioning mechanism.

(Re Claim 17) “elevators cup detects a presence of a dispensed product” (Page 4 Col 1 line 55-56, Aria).

(Re claim 18) “elevators cup is open on one side” (Top, 4a figure 8, Aria).

(Re claim 19) “the first tension element and the second tension element are one of a belt, a chain, and a cable” (line 6 column 3, Peltier).

(Re claim 20) “rail is slidable along the vertical guide rail at each end of the rail” (62a figure 2, Aria).

Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aria as modified by Peltier as applied to claims 16-20 above, and further in view of Sorensen USPN 6,230,930.

(Re claim 24) Aria as modified by Peltier discloses the transportation system of claim 16.

Aria as modified by Peltier does not disclose being located on a movable door of a vending machine.

Sorensen teaches the mounting of the transportation mechanism to the movable door of a vending machine.

It would be obvious to one skilled in the art to have modified the attachment location of Aria as modified by Peltier to be attached to a movable door, because it saves space in the housing.

(Re claim 25) "the movable door includes a clear panel" (10a figure 1, Aria)

(Re claim 26) "positioning of the elevator cup and the rail are controlled by an input to a keypad" (16 figure 1, Aria)

(Re claim 27) "a product compartment of the vending machine includes a plurality of removable product separation and selection tray systems" (20 figure 1, Aria)

### ***Allowable Subject Matter***

Claims 21-23 and 28-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

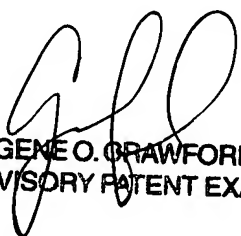
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure USPN 6,755,322.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TRW

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER